



Attorney's Docket No. 1001580-000719

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
Freddie Geier et al.)
Application No.: 09/757,006) Group Art Unit: 2174
Filed: January 8, 2001) Examiner: LE V NGUYEN
For: MEDIA EDITING AND) Appeal No.: _____
CREATING INTERFACE)

APPEAL BRIEF

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal is from the decision of the Primary Examiner dated December 2, 2005 (Paper No. 200603), finally rejecting claims 85-91, which are reproduced as the Claims Appendix of this brief.

A check covering the 250 500 Government fee is filed herewith.
 Charge 250 500 to Credit Card. Form PTO-2038 is attached.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 41.20 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

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I. Real Party in Interest

The subject application is assigned to Apple Computer, Inc.

II. Related Appeals and Interferences

There are no other prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by, or have bearing on the Board's decision in this appeal.

III. Status of Claims

The application contains claims 1-91. Claims 1-74 have been canceled, and claims 75-91 are pending. Claims 75-84 have been withdrawn from consideration, and claims 85-91 stand finally rejected. This appeal is directed to the rejections of claims 85-91.

IV. Status of Amendments

There were no amendments filed subsequent to the final Office Action.

V. Summary of Claimed Subject Matter

The claims are directed to a graphical user interface that facilitates a user's ability to assemble and record media files onto a removable storage medium, such as a digital versatile disk (DVD) or a compact disk (CD). Examples of such an interface are illustrated in Figures 1-6 of the application. Referring to Figure 1, the exemplary interface includes a window 10 that defines an area, or pane 30, onto which users can drag and drop files to be recorded on the removable storage medium. These files are displayed within the pane 30 as icons. For instance, Figure 1 illustrates an icon 60 labeled "Movie 1" that is associated with a media file that has been dragged from the window of another application. Figure 2 illustrates an example in which multiple media files have been dragged onto the pane 30, as represented by the icons labeled "Movie 1" and "Movie 2." (Page 6, lines 2-21).

The window 10 contains a number of control elements, e.g. buttons 40-50, for performing various functions associated with the interface and the recording

operation. One such button is the burn button 50. Upon activation of this button, the media files that are displayed within the pane 30 are recorded onto a DVD or CD. Thus, by simply dragging and dropping media files within the area of the pane 30, and then activating the burn button 50, the user can easily record media files onto a DVD or CD. (Page 11, lines 1-11; page 13, line 14 to page 14, line 10).

Another feature associated with the user interface is the ability to present different themes. Figures 1 and 2 illustrate a "Chalkboard" theme. In this theme, the color and texture of the background portion of the pane 30 are similar to that of a traditional chalkboard. The media file icons have a shape representing a box drawn with chalk. (Page 7, lines 12-19). The user can switch themes by activating the theme button 40. Upon doing so, a window 100 is displayed, as represented in Figure 2, and depicts the various themes that are available for selection. If the user selects the theme 102D labeled "Road Trip," the interface switches from the "Chalkboard" theme shown in Figures 1 and 2 to the theme shown in Figures 4 and 5. As can be seen, the background portion of the pane 30 changes to a depiction of a map, and the shapes of the media file icons 60A-60D represent highway signs. (Page 7, line 20 to page 8, line 2; page 9, lines 6-16).

Another function associated with the interface is the ability to create a slideshow. Upon activating the slideshow button 44, a slideshow folder is created within the recording pane 30, as represented by icon 60F in Figure 5. The user can then drag and drop files into this folder, which can then be played back in the manner of a slideshow. (Page 10, lines 1-14).

VI. Grounds of Rejection to be Reviewed on Appeal

The final Office Action dated December 2, 2005 presents three grounds of rejection for review on this appeal:

1. Claims 85, 86, 88 and 89 stand rejected under 35 U.S.C. §102, as being anticipated by screen images of Microsoft Windows NT, Version 4.0, that accompanied the Office Action;

2. Claims 90 and 91 are rejected under 35 U.S.C. §103, as being unpatentable over the screen images of Microsoft Windows; and

3. Claim 87 is rejected under 35 U.S.C. §103 as being unpatentable over the screen images of Microsoft Windows, in view of the Yang et al patent (U.S. 6,301,586).

VII. Argument

A. Claims 85, 86, 88 and 89

Claims 85, 86, 88 and 89 were rejected on the grounds that they were considered to be anticipated by the screen images of Microsoft Windows that accompanied the final Office Action. For ease of reference, copies of these three screen images are reproduced in the Evidence Appendix to this Brief.

As set forth in MPEP §2131, "to anticipate a claim, the reference must teach every element of the claim." The screen images of Microsoft Windows do not meet this requirement.

Claim 85 recites a graphical user interface that comprises, as a first element, at least one window that defines an area onto which a user can drag and drop one or more files to be recorded on a removable storage medium, said files being displayed within said area as icons. With reference to this claimed feature, the final Office Action refers to Figure 1 of the screen image, and window 120. The Office Action refers to the dragging and dropping of a file 110 from another window onto the icon 130 for a floppy disk drive A, in the window 120. Thus, it appears that the Office Action is interpreting the unnumbered pane in which the floppy disk icon 130 appears as the "area" recited in claim 85.

Claim 85 goes on to recite a control element on the window that enables a user to select from among a plurality of different themes for displayed features of the defined area and the icons. In connection with this subject matter, the final Office Action states that Figure 2 of the screen images shows a "View" control element that enables a user to select "Large icons" (220), "Small icons" (230), "List" (240) and "Details" (250). This View menu does not anticipate, nor otherwise suggest, the control element recited in claim 85.

Among other features, claim 85 recites that the control element is "on said window." Figure 2 of the screen images is not associated with the window 120

shown in Figure 1. Window 120 is a browser window for viewing folders and files in the computer's file system. The menu shown in Figure 2 is not depicted in conjunction with that window, let alone "on" the window, as recited in claim 85. Rather, it is shown on the desktop as a completely different window. The browser window 120 does not even appear in the screen image of Figure 2. The disparate and disassociated windows of Figures 1 and 2 cannot be interpreted to disclose the control element recited in claim 85.

For at least these reasons, therefore, the screen images of Microsoft Windows do not teach "every" element recited in claim 85. As such, they cannot anticipate the subject matter of claim 85, or its dependent claims 86, 88 and 89.

Claim 88 depends from claim 85, and recites that the shape of the icons displayed in the window area is determined by the selected theme. In rejecting this claim, the final Office Action states that the Large icons depicted in Figure 2 have a different shape from the icons appearing in the Details view depicted in pane 160 of Figure 1. Again, these two disassociated figures do not disclose the claimed subject matter. There is no showing in the Office Action that the objects in the window of Figure 2 are the same as the objects shown in Figure 1. Nor is there any showing that the "View" command of the Figure 2 window has any effect upon the icons in the window of Figure 1. The fact that different objects may have different shapes is irrelevant, as far as the claimed feature is concerned.

Furthermore, in Microsoft Windows, the different options available under the "View" menu do not affect the *shape* of the icons that are displayed. In all of these views, a folder icon, for example, has the same shape. It is only the *size* of the icon that changes from one view to another. The screen images of Microsoft Windows do not disclose the subject matter of claim 88, which recites that the shape of the icons "is determined by the selected theme." In Microsoft Windows, the shape of the icon is independent of the particular view that is selected by the user.

Claim 89 depends from claim 88, and recites that the defined area of the window is displayed with a background image that is determined by the selected theme. In rejecting this claim, the final Office Action states that, in Figures 1 and 2 of the screen images, "a white background image is associated with each theme." If

anything, this statement teaches away from the claimed subject matter. If the *same* image is associated with each theme, then that image is not "determined by the selected theme," as recited in claim 89. Rather, the backgrounds image is *independent* of the "themes." Selecting a particular view does not "determine" the background image, as recited in claim 89.

For these additional reasons, therefore, the subject matter of claims 88 and 89 is not anticipated by the screen images of Microsoft Windows.

B. Claims 90 and 91

Claims 90 and 91 depend from claim 85, and recite that the removable storage medium is a digital versatile disk (DVD) or a compact disk (CD), respectively. The final Office Action acknowledges that the screen images of Microsoft Windows do not disclose that the removable storage medium can be a DVD or a CD. To support the rejection, therefore, it takes Official Notice that it was well known to store data on a DVD or a CD, and alleges that it would be obvious to do so within the context of Microsoft Windows represented by the screen images. While it is true that the general concept of recording data on a DVD or a CD is known, *per se*, the Office Action does not provide any evidence to support the rejection of claims 90 and 91. These claims do not merely recite that data is recorded on a DVD or a CD. Rather, they recite that the recording control element recited in claim 85 causes the files "in said defined area of the interface window" to be burned onto the disk. The Office Action does not contain any showing that the version of Microsoft Windows represented by the screen images has a control element that is capable of performing such a function. Rather, in the timeframe of the version of Microsoft Windows represented by the screen images, e.g. 1998, a separate application was required to record data onto a CD or a DVD within the Windows operating system. The Office Action does not provide any evidence to show that files could be recorded on a DVD, or a CD, by simply dropping and dragging them within a browser window.

Accordingly, the final Office Action does not present evidence that is sufficient to support the rejection of claims 90 and 91.

C. Claim 87

Claim 87 depends from claim 85, and recites that the interface window includes a control element which causes a slideshow icon to be displayed in the defined area, onto which the user can drag and drop image files to be recorded on a removable storage medium in the format of a slideshow to be presented on a media playback device. The rejection of this claim states that, while the screen images of Microsoft Windows illustrate an icon onto which a user can drag and drop image files, they do not disclose that dropped files are recorded in a slideshow format for presentation on a media playback device. To this end, therefore, the Office Action relies upon the Yang et al patent. This patent is directed to the management of a database that includes multimedia objects, by organizing the objects into albums and collections of albums. In relevant part, it discloses that a user can view the contents of an album as a slideshow, and has control over certain options.

The Yang patent does not relate to the *recording* of multimedia objects onto a removable storage medium. In particular, it does not disclose a user interface having a control element that causes a slide show icon to be displayed, onto which the user can drag and drop multimedia files, and have them recorded on the removable storage medium in the format of a slideshow for presentation on a playback device. At best, a logical application of the teachings of the Yang patent to the Microsoft Windows system depicted in the screen images would be to organize a database of media files in the form of albums and collections of albums, and to provide the user with the ability to play back the contents of an album as a slideshow. There is no teaching which suggests an *interface* that enables the user to retrieve and record media files on a removable storage medium, so that they are played back in the manner of a slideshow.

Furthermore, the Yang patent does not overcome the distinctions between the screen images of Microsoft Windows and the features of the rejected claims that are discussed in the previous sections of this Brief.

D. Conclusion

The screen images of Microsoft Windows do not disclose *every* element recited in the rejected claims, and therefore do not anticipate the subject matter of

those claims. Furthermore, the Yang patent does not overcome the differences between the claimed subject matter and the features of Microsoft Windows depicted in the screen images.

The rejections of the claims are not properly founded in the statute, and should be reversed.

VIII. Claims Appendix

See attached Claims Appendix for a copy of the claims involved in the appeal.

IX. Evidence Appendix

See attached Evidence Appendix for a copy of the screen images of Microsoft Windows NT that are relied upon in the final Office Action.

X. Related Proceedings Appendix

(None).

Respectfully submitted,

Buchanan Ingwersoll PC

Date _____

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VIII. CLAIMS APPENDIX

The Appealed Claims

85. A graphical user interface on a computer-readable medium for assembling and recording media files on a removable storage medium, comprising:
at least one window that defines an area onto which a user can drag and drop one or more files to be recorded on a removable storage medium, said files being displayed within said area as icons;

a control element on said window that enables a user to select from among a plurality of different themes for displayed features of said defined area and said icons; and

a recording control element which, when activated by a user, causes the content of the files in said defined area to be recorded on a removable storage medium.

86. The graphical user interface of claim 85, wherein said window includes a control element which, when activated by a user, causes a folder icon to be displayed in said defined area onto which the user can drag and drop data files to be recorded on a removable storage medium.

87. The graphical user interface of claim 85, wherein said window includes a control element which, when activated by a user, causes a slideshow icon to be displayed in said defined area onto which the user can drag and drop image files to be recorded on a removable storage medium in the format of a slideshow to be presented on a media playback device.

88. The graphical user interface of claim 85 wherein the shape of said icons is determined by the selected theme.

89. The graphical user interface of claim 88 wherein said defined area is displayed with a background image that is determined by the selected theme.

90. The graphical user interface of claim 85 wherein said removable storage medium is a digital versatile disk (DVD), and said recording control element causes the files in said defined area to be burned onto the disk.

91. The graphical user interface of claim 85 wherein said removable storage medium is a compact disk (CD), and said recording control element causes the files in said defined area to be burned onto the disk.

Evidence Appendix

Screen Images of Microsoft Windows NT, Version 4.0. Figures 1-3.

Evidence Appendix - 1

#1016584-v1

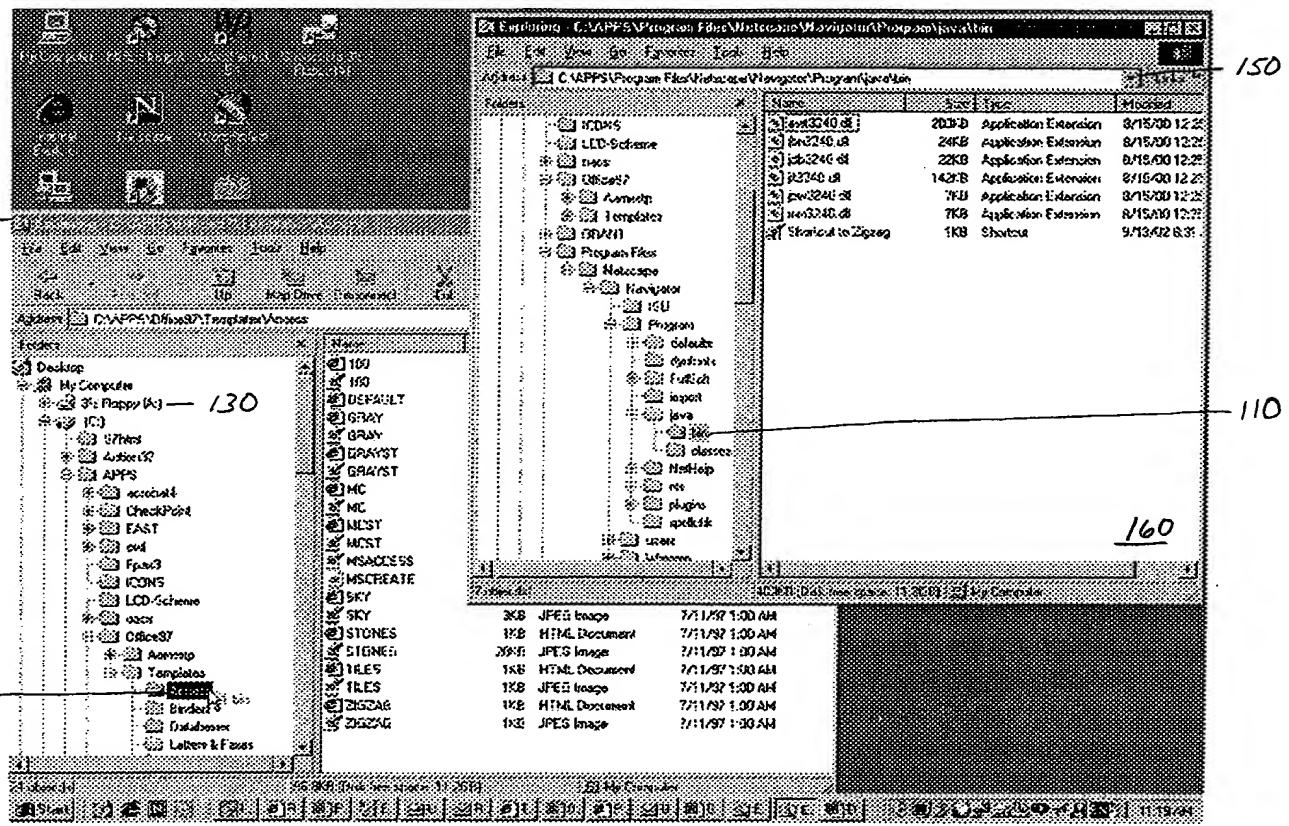


FIGURE 1
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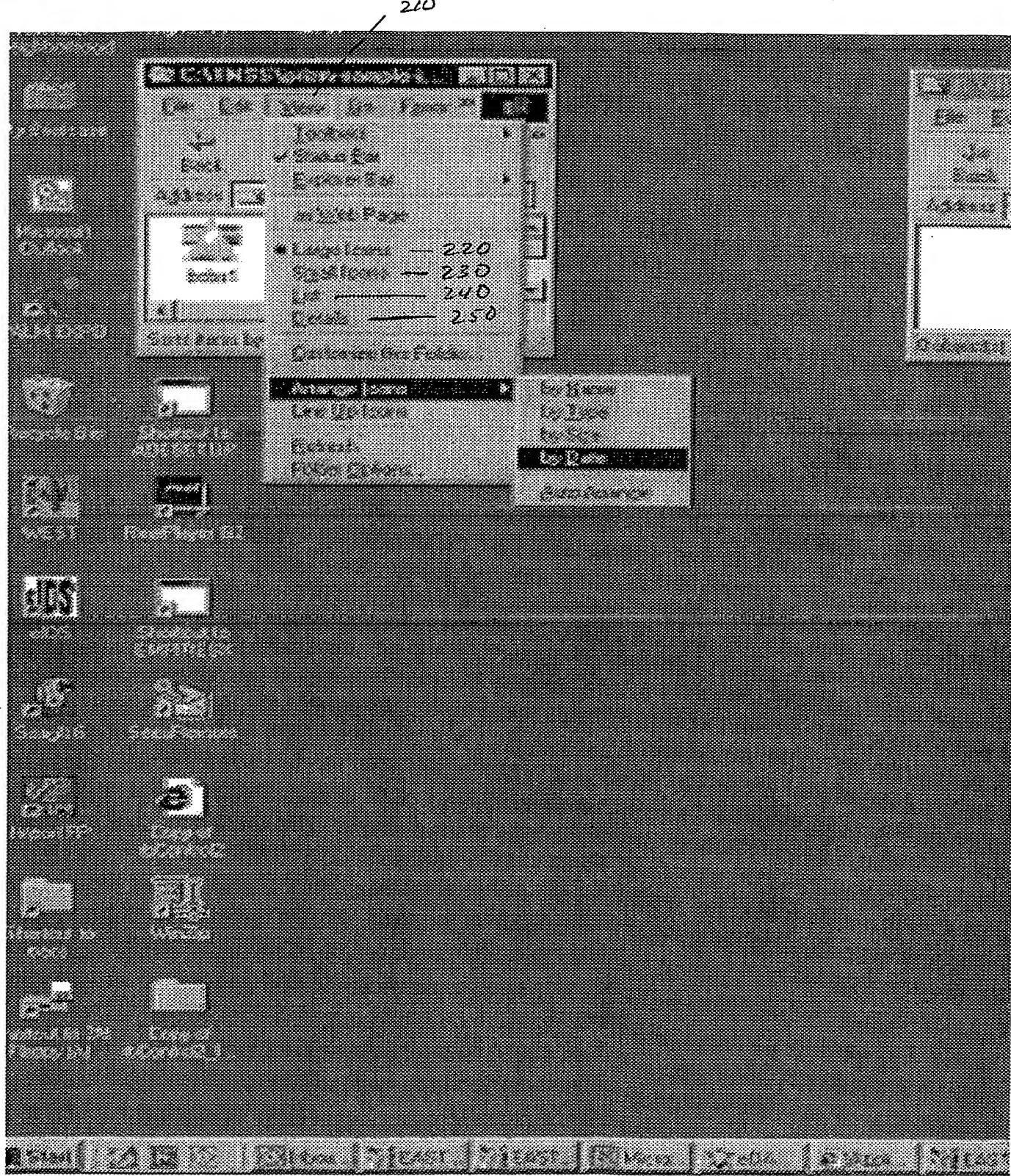


FIGURE 2
09/757,006

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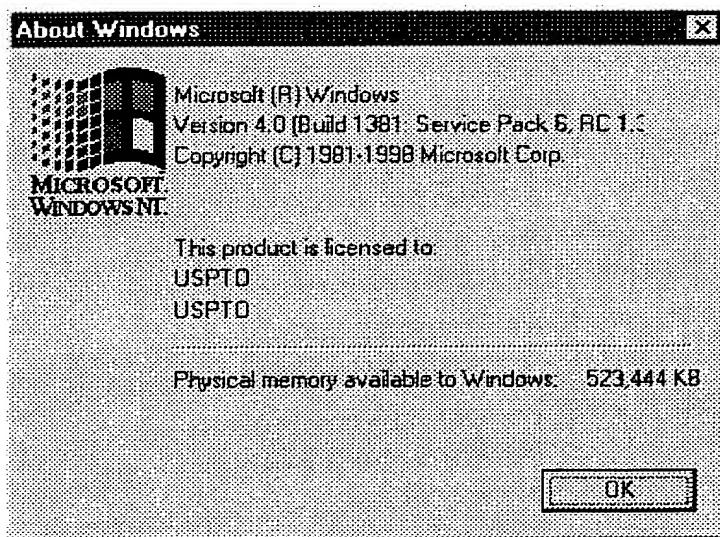


FIGURE 3
09/757,006

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